

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

3. The matter was set for hearing on November 21, 2002 at which time PATH explained to the petitioner that its dental

consultant found the measurement of the crowding was only 3-4 mm which is insufficient to meet one minor criteria and that one blocked bicuspid was insufficient to meet another minor criteria for treatment and was not as severe as a blocked cuspid.¹ The hearing officer urged the petitioner to get a letter from the orthodontist discussing his findings and detailing any other dental problems he might be experiencing. The matter was scheduled again for December 19 but continued because the orthodontist had not yet prepared the letter.

4. The orthodontist supplied a letter on January 23, 2003, in which he said that the bicuspid has failed to completely erupt and appears blocked out. He stated that the "quantification of the crowding can be a controversial measurement" but gave no details as to what he felt was the exact measurement. No further dental problems were discussed.

5. A further hearing was set for February 13, 2003. At that time, PATH said that it had reviewed the orthodontist's

¹ This opinion was presented in the form of comments on the original application made by the consulting dentist. Because these comments were not refuted by the petitioner's orthodontist, no more formal presentation of this evidence was required. However, PATH should be aware that in the future, such opinions should be expressed by way of signed opinions if they are to be admitted under the Board's rules.

letter and that it had not changed its position. PATH stated that there was no evidence that the petitioner met any minor criteria and that the orthodontist had not alleged further dental problems which were as severe as the listings. The petitioner was advised that she could have another continuance to obtain another opinion from her dentist with regard to the overall severity of the boy's dentition as it related to the listings. The petitioner said she would attempt to provide further evidence with regard to that factor.

6. As of May 1, 2003, the petitioner has provided no further evidence of her son's dental condition. As the treating orthodontist has failed to specify an exact measurement of the crowding, it is found that the PATH's measurement of 3-4 mm is accurate. It is also found that the son's impacted bicuspid is not a listed minor criteria and does not meet or equal the level of severity of an impacted cuspid.

ORDER

The decision of PATH is affirmed.

REASONS

PATH has adopted regulations for the coverage of orthodontics in the Medicaid program which include the following:

M622 Orthodontic Treatment

M622.1 Definition

Medically necessary orthodontic treatment involves the use of one or more prosthetic devices to correct a severe malocclusion. This definition is consistent with the federal definition found at 42 C.F.R. § 440.120(c).

M622.2 Eligibility for Care

Coverage for orthodontic services is limited to Medicaid recipients under the age of 21.

M622.3

Services that have been preapproved for coverage are limited to medically necessary orthodontic treatment, as defined in M622.4.

M622.4

To be considered medically necessary, the patient's condition must have one major or two minor malocclusions according to diagnostic criteria adopted by the department's dental consultant or if otherwise medically necessary under EPSDT found at M100.

The major and minor criteria adopted by PATH are as follows:

Major: cleft palate; severe skeletal Class III; Posterior crossbite (3+ teeth); other severe cranio-facial anomaly.

Minor: Impacted cuspid, 2 blocked cuspids per arch (deficient by at least 1/3 of needed space); 3

Congenitally missing teeth, per arch (excluding third molars); Anterior open bite 3 or more teeth (4+mm); Crowding per arch (10+mm), Anterior crossbite (3+ teeth); Traumatic deep bite impinging on palate; Overjet 10+mm (measured from labial to labial).

The petitioner's son's condition does not meet these listings because he has an impacted bicuspid, not a cuspid, and because his crowding does not meet the level set forth in the criteria. Pursuant to the Board's recent decision in consolidated Fair Hearing Nos. 17,070, 17,326, 17,410, 17,490 and 17,522, any child's condition can also be reviewed under general EPSDT standards if his or her provider alleges that the combination of dental conditions is as severe as those found in the listings. The petitioner, however, was unable to provide any such evidence from her son's orthodontist. It must be concluded, therefore, that PATH was correct in determining that this child's condition was not severe enough to meet the standard set forth in the regulations and its decision should be upheld by the Board.

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